

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DYLAN BURGESS, individually and on §
behalf of all others similarly situated, §
Plaintiff, §

v. §

RAB, INC., §
Defendant. §

Case No. 3:23-cv-02845-L

DEFENDANT RAB, INC.’S MOTION TO DISMISS

COMES NOW, Defendant RAB, Inc. (“Defendant”) and files this Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) as follows:

I.

1. Plaintiff filed suit against Defendant on December 22, 2023, alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”). Doc. 1. Plaintiff alleges Defendant violated sections 1692c, 1692e, and 1692g of the FDCPA in its communications with Plaintiff and others. *Id.* at 10-11.
2. “Only financial obligations incurred for purchases ‘primarily for personal, family, or household purposes’ qualify as consumer ‘debt’ subject to the rules and regulations of the FDCPA.” *Garcia v. Jenkins Babb, L.L.P.*, 569 F. App’x 274, 275 (5th Cir. 2014) (per curiam) (quoting 15 U.S.C. § 1692a(5)).
3. The debt at issue in this matter is a commercial debt, which Plaintiff warranted would be used for business purposes only.
4. Therefore, Plaintiff has failed to state a claim upon which relief can be granted, as the FDCPA categorically does not apply to commercial debts.

5. In accordance with Local Rule 731(d), a Brief in Support is filed concurrently with this Motion.

6. For these reasons, this Court should grant this Motion to Dismiss and dismiss all claims against Defendant with prejudice.

Respectfully submitted,

**MARTIN GOLDEN LYONS
WATTS MORGAN PLLC**

/s/ Xerxes Martin

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**COUNSEL FOR DEFENDANT
RAB INC.**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via CM/ECF system to all parties entitled to notice of the same on this 23rd day of January, 2024.

/s/ Xerxes Martin

EUGENE XERXES MARTIN, IV